

## Economic Impact Analysis

**Rule Topic:** Amendments of General Rule and Electronic Manifest

**Rule Citation:** 15A NCAC 13A .0101  
15A NCAC 13A .0107  
15A NCAC 13A .0108

**Name of Commission:** Environmental Management Commission

**DEQ Division:** Waste Management

**Agency Contact:** Julie Woosley, Section Chief  
Hazardous Waste Section  
Division of Waste Management  
1646 Mail Service Center  
Raleigh, NC 27699-1646  
(919) 707-8203  
[Julie.Woosley@ncdenr.gov](mailto:Julie.Woosley@ncdenr.gov)

**Analyst:** Ann Preston, Environmental Chemist  
Division of Waste Management (DWM)  
(919) 707-8226  
[ann.preston@ncdenr.gov](mailto:ann.preston@ncdenr.gov)

<b>Impact Summary:</b>	State Government:	No
	Local Government:	No
	Federal Government:	No
	Private Property Owners:	No
	Substantial Impact:	No

**Authority:** G.S. 130A-294 and G.S. 130A-295

### I. Summary:

The Environmental Protection Agency ("EPA") is requesting North Carolina amend the rule to clarify when the substitution of the term "Department of Environmental Quality" applies to both terms: "Environmental Protection Agency" and "EPA", and other non-technical changes.

EPA is encouraging North Carolina to amend the rules that will authorize the use of electronic manifests as a means to track offsite shipments of hazardous waste from the generator's site to the site of the receipt and disposition of the hazardous waste.

On May 22, 2001, EPA published a notice of proposed rulemaking that proposed several major revisions to the hazardous waste manifest system (66 FR 28240). In response to the May 2001 electronic manifesting proposal, EPA received some 64 sets of public comments from affected or interested members of the public. In summary, commenters on the May 2001 proposed rule generally suggested that one national e-Manifest system would be preferable to the proposed approach, as it would provide a more consistent, secure and cost-effective solution that would be accessible to more users. Overall, the commenters also expressed the view that a national or centralized electronic manifest system would offer greater benefits to both manifest users and regulators, such as one-stop

manifest reporting, more effective inspection and enforcement activities by RCRA regulators, the possibility of nearly real-time shipment tracking services, and the possible consolidation of duplicative federal and state systems now in place to collect and manage manifest data and data collected for the RCRA biennial reporting requirements. On April 1, 2004, EPA provided notice in the Federal Register of its plans to conduct a two-day public meeting with stakeholders on the future direction of the electronic manifest project (69 FR 17145). EPA published a notice of data availability and request for comment in the Federal Register on April 18, 2006 (74 FR 19842). EPA issued another notice of data availability and request for comment specific to these issues in the February 26, 2008 Federal Register, 73 FR 10204. During September 2012, the 112<sup>th</sup> Congress enacted legislation entitled the Hazardous Waste Electronic Manifest Establishment Act, Public Law 112–195 (hereafter, the e-Manifest Act). This legislation was signed into law by President Obama on October 5, 2012. This legislation was enacted into law expressly to direct EPA to establish a national e-Manifest system, as well as to facilitate the establishment of the e-Manifest system by providing EPA with explicit statutory authority needed to implement the electronic manifest in a self-sustaining manner. This final rule is effective as a final agency action on August 6, 2014. Authorized states must adopt program revisions equivalent to and consistent with today's federal requirements,

The proposed changes to 15A NCAC 13A .0101, 15A NCAC 13A .0107 and 15A NCAC 13A .0108 would make the State Hazardous Waste Program equivalent to, consistent with, and no less stringent than the federal RCRA program, by incorporating federal changes to 40 CFR 260, 262 and 263.

## **II. Cost Estimation**

As part of the amendments to the General Rulemaking Rule, the EPA is requesting North Carolina amend the rule to clarify when the substitution of the term "Department of Environmental Quality" applies to both terms: "Environmental Protection Agency" and "EPA", and other non-technical changes.

As part of the amendments to the Electronic Manifest Rules, EPA is encouraging North Carolina to amend the rules that will authorize the use of electronic manifests as a means to track offsite shipments of hazardous waste from the generator's site to the site of the receipt and disposition of the hazardous waste. The cost of clarification and non-technical changes does not affect the federal government, state government, local government or private property owners and is expected to be negligible. EPA projected the economic impacts of the electronic manifest rule and determined that the rule establishes legal and policy framework for the national e-manifest system and does not independently impose or realize any direct monetary cost or benefits.

EPA determined that the prominent non-economic benefits of the electronic manifest system are: (1) Improved access to higher quality and more timely waste shipment data; (2) nearly real-time shipment tracking capabilities for users; (3) enhanced manifest inspection and enforcement capabilities for regulators; (4) more rapid notification and responses to problems or discrepancies encountered with shipments or deliveries; (5) greater access for emergency responders about the types and sources of hazardous waste that are in movement between generator sites and waste management facilities; (6) one-stop manifest copy submission to EPA and to all interested states through the Exchange Network architecture; (7) greater transparency for the public about completed hazardous waste shipments to or from their communities; and (8) new data management possibilities that could ultimately simplify the RCRA biennial reporting requirements and consolidate various federal and state reporting requirements for domestic and transboundary shipments.

## **III. Certificate of Federal Requirement**

In accordance with requirements outlined in G.S. § 150B-19.1. (g), the DWM is proposing changes to the Rules 15A NCAC 13A .0101, .0107 and .0108. These changes are identical to the requirements of 40 CFR 260, 262 and 263 that the DWM is required to implement in accordance with the G.S. 130A-294 and G.S. 130A-295. The United States Environmental Protection Agency ("EPA") has authorized North Carolina to operate the State

Hazardous Waste Program in lieu of the federal program under the Resource Conservation and Recovery Act (“RCRA”), 42 U.S.C. §§ 6901 to 6992k. Because the State Hazardous Waste Program is federally delegated, EPA continues to exercise oversight—including the ability to revoke program authorization—to ensure consistency with RCRA. Specifically, the State Hazardous Waste Program must remain equivalent to, consistent with, and no less stringent than the Federal program. RCRA § 3006(b); 42 U.S.C. § 6926(b); 40 C.F.R. § 271.4. The Act instructs the Department to “cooperate . . . with . . . the federal government . . . in the formulation and carrying out of a solid waste management program,” including a program for the management of hazardous waste “designed to protect the public health, safety, and welfare; [and to] preserve the environment.” N.C.G.S. § 130A-294(a)(2), (b). The Act mandates the adoption of rules to implement that program. N.C.G.S. § 130A-294(b).

## Proposed Amendments

1 15A NCAC 13A .0101 is proposed for amendment as follows:

3 **15A NCAC 13A .0101 GENERAL**

4 (a) The Hazardous Waste Section of the Division of Waste Management shall administer the hazardous waste  
5 management program for the State of North Carolina.

6 (b) In applying the federal requirements incorporated by reference throughout this Subchapter, the following  
7 substitutions or exceptions shall apply:

8 ~~(1) "Department of Environment and Natural Resources" shall be substituted for "Environmental~~  
9 ~~Protection Agency" except in 40 CFR 262.51 through 262.54, 262.56, 262.57, and Part 124 where~~  
10 ~~references to the Environmental Protection Agency shall remain without substitution;~~

11 ~~(2) "Secretary of the Department of Environment and Natural Resources" shall be substituted for~~  
12 ~~"Administrator," "Regional Administrator," "Assistant Administrator" and "Director" except for 40~~  
13 ~~CFR 262.55 through 262.57, 264.12(a), 268.5, 268.6, 268.42(b), 268.44, and Part 124 where the~~  
14 ~~references to the Administrator, Regional Administrator, Assistant Administrator and Director shall~~  
15 ~~remain without substitution.~~

16 When used in any of the federal regulations incorporated by reference throughout this Subchapter, except  
17 where the context requires references to remain without substitution (including with regard to forms,  
18 publications and regulations concerning international shipments, variances from land disposal restrictions  
19 and other program areas over which the federal government retains sole authority): "United States" shall  
20 mean the State of North Carolina; "Environmental Protection Agency," "EPA" and "Agency" shall mean  
21 the Department of Environmental Quality ; and "Administrator," "Regional Administrator,"  
22 "Assistant Administrator" and "Director" shall mean the Secretary of the Department of Environmental  
23 Quality. The North Carolina Solid Waste Management Act and other applicable North Carolina  
24 General Statutes shall be substituted for references to "the Solid Waste Disposal Act," "the Resource  
25 Conservation and Recovery Act" and "RCRA" where required by context.

26 (c) In the event that there are inconsistencies or duplications in the requirements of those Federal rules incorporated  
27 by reference throughout this Subchapter and the State rules set out in this Subchapter, the provisions incorporated by  
28 reference shall prevail except where the State rules are more stringent.

29 (d) 40 CFR 260.1 through 260.3 (Subpart A), "General," are incorporated by reference including subsequent  
30 amendments and editions.

31 (e) 40 CFR 260.11, "References", is incorporated by reference including subsequent amendments and editions.

32 (f) Copies of all materials in this Subchapter may be inspected or obtained as follows:

33 (1) Persons interested in receiving rule-making notices concerning the North Carolina Hazardous Waste  
34 Management Rules must submit a written request to the Hazardous Waste Section, ~~PO Box 29603,~~  
35 1646 Mail Services Center, Raleigh, N.C. 27611-9603. 27699-1646. ~~A check in the amount of~~  
36 ~~fifteen dollars (\$15.00) made payable to The Hazardous Waste Section must be enclosed with each~~

~~request.~~ Upon receipt of each request, individuals shall be placed on a mailing list to receive ~~notices~~  
~~for one year.~~ notices.

- (2) Material incorporated by reference in the Federal Register may be obtained from the ~~Superintendent~~  
~~of Documents, U.S. Government Printing Office, Washington, D.C. 20402~~ at a cost of seven  
~~hundred and sixty four dollars (\$764.00) per year. Federal Register materials are codified once a~~  
~~year in the Code of Federal Regulations and may be obtained at the above address for a cost of:~~ 40  
CFR 100-135 ~~forty two dollars (\$42.00), 40 CFR 260-265 forty seven dollars (\$47.00) and 40 CFR~~  
266-299, ~~forty seven dollars (\$47.00), total one hundred thirty six dollars (\$136.00)~~ U. S.  
Government Bookstore's website at <https://bookstore.gpo.gov/products/sku/769-004-00000-9?ctid=> for a cost of nine hundred twenty nine dollars (\$929.00).

- (3) The North Carolina Hazardous Waste Management Rules, ~~including the incorporated by reference~~  
~~materials~~ may be obtained from the Hazardous Waste Section at the cost to the Section.

- (4) All material is available for inspection at the Department of ~~Environment and Natural Resources~~  
Environmental Quality, Hazardous Waste Section, ~~401 Oberlin Road,~~ 217 West Jones Street,  
Raleigh, ~~NC,~~ NC and at <http://portal.ncdenr.org/web/wm/hw/rules/statelaws>.

*History Note:* Authority G.S. 130A-294(c); 150B-21.6;  
Eff. September 1, 1979;  
Amended Eff. June 1, 1989; June 1, 1988; August 1, 1987; May 1, 1987;  
Transferred and Recodified from 10 NCAC 10F .0001 Eff. April 4, 1990;  
Amended Eff. October 1, 1993; April 1, 1993; October 1, 1992; December 1, 1991;  
Recodified from 15A NCAC 13A .0001 Eff. December 20, 1996;  
Amended Eff. August 1, 2004; August 1, 2000; August 1, 1998; August 1, 1997.

1 15A NCAC 13A .0107 is proposed for amendment as follows:

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3 **15A NCAC 13A .0107 STDS APPLICABLE TO GENERATORS OF HAZARDOUS WASTE - PART 262**

4 (a) 40 CFR 262.10 through 262.12 (Subpart A), "General", are incorporated by reference including subsequent  
5 amendments and editions.

6 (b) 40 CFR 262.20 through 262.27 (Subpart B), "The Manifest", are incorporated by reference including subsequent  
7 amendments and ~~editions~~ editions, ~~except that 262.24, 262.25, and 262.26 are not incorporated by reference.~~

8 (c) 40 CFR 262.30 through 262.34 (Subpart C), "Pre-Transport Requirements", are incorporated by reference  
9 including subsequent amendments and editions.

10 (d) 40 CFR 262.40 through 262.44 (Subpart D), "Recordkeeping and Reporting", are incorporated by reference  
11 including subsequent amendments and editions. In addition, a generator shall keep records of inspections and results  
12 of inspections required by Section 262.34 for at least three years from the date of the inspection.

13 (e) 40 CFR 262.50 through 262.58 (Subpart E), "Exports of Hazardous Waste", are incorporated by reference  
14 including subsequent amendments and editions.

15 (f) 40 CFR 262.60 (Subpart F), "Imports of Hazardous Waste", is incorporated by reference including subsequent  
16 amendments and editions.

17 (g) 40 CFR 262.70 (Subpart G), "Farmers" is incorporated by reference including subsequent amendments and  
18 editions.

19 (h) 40 CFR 262.80 through 262.89 (Subpart H), "Transfrontier Shipments of Hazardous Waste for Recovery within  
20 the OECD", are incorporated by reference including subsequent amendments and editions, except that 40 CFR  
21 262.89(e) is not incorporated by reference.

22 (i) 40 CFR 262.200 through 262.216 (Subpart K), "Alternative Requirements for Hazardous Waste Determination  
23 and Accumulation of Unwanted Material for Laboratories Owned by Eligible Academic Entities", is incorporated by  
24 reference including subsequent amendments and editions.

25 (j) The appendix to 40 CFR Part 262 is incorporated by reference including subsequent amendments and editions.

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27 *History Note: Authority G.S. 130A-294(c); 150B-21.6;*

28 *Eff. November 19, 1980;*

29 *Amended Eff. December 1, 1988; June 1, 1988; August 1, 1987; May 1, 1987;*

30 *Transferred and Recodified from 10 NCAC 10F .0030 Eff. April 4, 1990;*

31 *Amended Eff. August 1, 1990;*

32 *Recodified from 15A NCAC 13A .0008 Eff. August 30, 1990;*

33 *Amended Eff. April 1, 1993; October 1, 1990;*

34 *Recodified from 15A NCAC 13A .0007 Eff. December 20, 1996;*

35 *Amended Eff. April 1, 2010; November 1, 2007; January 1, 2007; April 1, 2001; August 1, 1998.*

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1 15A NCAC 13A .0108 is proposed as a temporary rule as follows:

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3 **15A NCAC 13A .0108 STDS APPLICABLE TO TRANSPORTERS OF HAZARDOUS WASTE – PART 263**

4 (a) 40 CFR 263.10 through 263.12 (Subpart A), "General", are incorporated by reference including subsequent  
5 amendments and editions.

6 (b) 40 CFR 263.20 through ~~263.22~~ 263.25 (Subpart B), "Compliance With the Manifest System and Record keeping",  
7 are incorporated by reference including subsequent amendments and editions.

8 (c) Upon discovering a significant manifest discrepancy, the transporter must attempt to reconcile the discrepancy  
9 with the waste generator (e.g. with telephone conversations). If the discrepancy is not resolved within 15 days after  
10 receiving the waste, the transporter must immediately submit to the Department a letter describing the discrepancy  
11 and attempts to reconcile it with a copy of the manifest or shipping paper at issue.

12 (d) Manifest discrepancies are differences between the quantity or type of hazardous waste designated on the manifest  
13 or shipping paper, and the quantity or type of hazardous waste a transporter actually transports. Significant  
14 discrepancies in quantity are: for bulk waste, variations greater than 10 percent in weight; and, for batch waste, any  
15 variation in piece count (e.g. a discrepancy of one drum in a truckload). Significant discrepancies in type are obvious  
16 differences which can be discovered by inspection or waste analysis (e.g. waste solvent substituted for waste acid, or  
17 toxic constituents not reported on the manifest or shipping paper).

18 (e) 40 CFR 263.30 through 263.31 (Subpart C), "Hazardous Waste Discharges", are incorporated by reference  
19 including subsequent amendments and editions.

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21 *History Note: Authority G.S. 130A-294(c); 150B-21.6;*  
22 *Eff. November 19, 1980;*  
23 *Amended Eff. June 1, 1988; August 1, 1987; May 1, 1987; October 1, 1986;*  
24 *Transferred and Recodified from 10 NCAC 10F .0031 Eff. April 4, 1990;*  
25 *Recodified from 15A NCAC 13A .0009 Eff. August 30, 1990;*  
26 *Amended Eff. April 1, 1993; October 1, 1990;*  
27 *Recodified from 15A NCAC 13A .0008 Eff. December 20, 1996;*  
28 *Amended Eff. August 1, 2000.*  
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